IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 28TH MARCH 2007 / 7TH CHAITHRA 1929

WP(C).No. 10641 of 2007(P)

PETITIONER:

M/S.MALABAR COLLECTIONS (P) LTD.,
NEW BUS STAND, KASARAGOD, REPRESENTED BY
ABDUL JALEEL.E., DIRECTOR.

BY ADV. SRI.K.B.MOHAMMEDKUTTY(SR.)
SRI.K.M.FIROZ

RESPONDENTS:
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1. **THE COMMERCIAL TAX OFFICER- III,**
   COMMERCIAL TAXES, KASARAGOD.

2. **THE DEPUTY COMMISSIONER (APPEALS),**
   DEPARTMENT OF COMMERCIAL TAXES,
   KOZHIKODE.

3. **THE INSPECTING ASSISTANT COMMISSIONER,**
   COMMERCIAL TAXES, KASARAGOD.

BY SR.GOVT.PLEADER SRI. MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING BEEN FIN ALLY HEARD ON 28/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.10641/2007 P

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE PERMISSION ORDER DATED 23/12/2006 ISSUED BY THE FIRST RESPONDENT.**

EXT.P2: **COPY OF THE REVISED APPEAL MEMORANDUM DATED 3/2/2007.**

EXT.P3: **COPY OF THE STAY PETITION DATED 31/01/07.**

EXT.P4: **COPY OF THE DEMAND DRAFT FOR RS.27,73,386/- FORWARDED TO THE FIRST RESPONDENT.**

EXT.P5: **COPY OF THE COVERING LETTER FORWARDING THE REVISED APPEAL DATED 3/02/2007.**

EXT.P6: **COPY OF THE NOTICE DATED 24/01/2007.**

EXT.P7: **COPY OF THE STAY ORDER DATED 19/03/2007.**

/TRUE COPY/

KSS

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 10641 OF 2007-P

JUDGMENT

The petitioner challenges Ext.P7 order, by which its application for interim stay of recovery of the amount due under Ext.P1 has been dealt with. According to the petitioner, it falls under Section 8(f)(i) of the K.V.A.T. Act. But, instead it was treated as falling under Section 8(f)(ii). If the said illegality is rectified, no further amount will be due from the petitioner. Whatever amount payable has already been paid, as evident from Ext.P4, it is submitted.

2. I heard the learned Government Pleader for the respondents also. He submitted that the Commissioner of Commercial Taxes is contemplating on issuing some clarification on this point and the same will be issued soon. In view of the above position, further recovery pursuant to Ext.P1 shall be kept in abeyance, provided the petitioner furnishes security for the balance amount within one month from today. The petitioner shall co-operate with the appellate authority for early disposal of the appeal and avoid taking unnecessary adjournments. The appellate authority shall endeavour to pass final orders in the appeal as expeditiously as possible, at any rate, within

three months from today.

The writ petition is disposed of as above.

28th March, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/